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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,976	06/27/2001	Charles L. Urso		3786

7590

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EXAMINER
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DEANE JR, WILLIAM J

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/892,976

Applicant(s)

URSO, CHARLES L.

Examiner

William J. Deane

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21 – 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 95/18490 (Jackson) in view of U.S. Patent No. 5,796,374 (Cone et al.).

With respect to claims 21 - 22, 25, 32 – 33 - 38 Jackson teaches a communication device 10 comprising a cap 12, a soft crown 26, a stiff rib 110 and a wireless telephone (see page 6, line 17). The Examiner considers the shielding 110 as the rib or multiple ribs (see page 6, lines 19 – 21). In addition, with respect to a rib, it is noted that even if applicant argues that the shielding is not a rib, it is the contention of the examiner that incorporating a rib or support is well within the ordinary skill of one in the art. It would be obvious to one of ordinary skill in the art to have incorporated a rib wherever support was needed. With respect to the phone, note page 6, lines 14 –17. Here, Jackson says the communication device is suitable for incorporation into a cap and that the device may be a cellular telephone. In addition, note that the device of Jackson is a computer (see page 2, lines 27 – 30). Note that shielding 110 support the computer components, in particularly elements 92 and 94. Since Jackson teaches a computer and since Voice over the Internet is well know (VoIP); the Examiner again could argue that the phone is with in the cap and supported by the rib 110. Though the

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controls for the phone could be on the wrist (Fig. 7) it need not be. Note that controls (72 & 74) of the computer are located on the visor 24.

With respect to a rigid visor, the examiner believes the visor of Jackson is rigid. If this is argued, note that Cone et al. explicitly teach the use of a rigid visor (see Col. 1, line 55 of Cone et al.). It would have been obvious to one of ordinary skill in the art to have incorporated such a rigid bill as taught by Cone et al. into the Jackson device as such would only entail the substitution of one known bill for another. In addition, note a support or rib that is attached to a visor in Cone et al. (Fig. 1 of Cone et al.). Additionally, note the multiple ribs or supports of Cone et al. (Fig. 1, 4 and 8).

With respect to claims 23, and 31 note elements 50 and 52. Note that the microphone is L-shaped.

With respect to claims 24, and 29 - 30, as claimed elements 62 and 64 read on applicant's claims. If this is argued, note Fig. 9 of Cone et al. A close look reveals the ability of the earphones to move vertically.

With respect to claim 25, note that Jackson discloses LED (page 7, line 16 and Cone et al. disclose the use of LCD (element #22).

With respect to claim 28, note Fig. 2, element 94.

With respect to claim 29, note the rejections above.

Claims 26 – 27 and 39 – 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson and Cone et al. and further in view of U.S. Patent Application No. 2002/0186180 (Duda). In addition, claims 24 and 29 - 30 are also further rejected under 103 as being unpatentable over Jackson.

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With respect to claims 26 – 27 and 39 - 40, Jackson teaches everything except for the particulars of the antenna. However, Jackson does teach an antenna and teaches that the antenna is flexible (note element 114). Therefore, Jackson teaches the claimed device except for placing the antenna on the visor. Note that Duda teaches an antenna placed on a visor (see Figs. 5 through 10 of Duda). Note also that the antenna, at least in some of the Figs. conforms to the shape of the visor. It would have been obvious to one of ordinary skill in the art to place such an antenna as taught by Duda into the Jackson/Cone et al. device as such would only entail the substitution of one antenna for another.

### ***Response to Arguments***

Applicant's arguments with respect to claims 21 - 40 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (571) 272-7478. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (571) 273-8300.

05Feb2006

  
**WILLIAM J. DEANE, JR.**  
**PRIMARY EXAMINER**